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10/085,298	02/28/2002	Brian P. LaMothe	1787-70800	7536

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EXAMINER

ART UNIT

PAPER NUMBER

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**OCT 18 2006**

**Technology Center 2100**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/085,298  
Filing Date: February 28, 2002  
Appellant(s): LAMOTHE ET AL.

\_\_\_\_\_Registration Number: 43,100 \_\_\_\_\_  
Mark E. Scott  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 7/26/2006 appealing from the Office action  
mailed 5/15/2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

2003/0028786	Mustafa	7-2001
2001/0034567	Allen et al.	1-2001
5812662	Hsu et al.	9-1998

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mustafa (2003/0028786) in view of Allen et al. (2001/0034567).

a) As to claim 8, Mustafa discloses a method and apparatus for preventing unauthorized reproduction and/or execution of the protected software comprising a computer system (see Mustafa, Fig. 1A, element 5), Mustafa also discloses computer means essentially any type of computing device or machine that is capable of running a software product (see Mustafa, page 8, paragraph [0073]), therefore the computer system anticipates a microcontroller having the ability to execute programs stored on a first non-volatile storage device (i.e. CD-ROM, see Mustafa, Fig. 19), the microcontroller also having a second non-volatile storage device coupled to the microcontroller (i.e. dongle storing license terms, see Mustafa, Fig. 1A, element 10), a method comprising accessing a key entry stored on the second non-volatile storage device, the key entry identifying programs on the first non-volatile storage device licensed for execution on the microcontroller and limiting use of the programs stored on the first non-volatile

storage device based on the key entry on the second non-volatile storage device (see Mustafa, Fig. 2).

Mustafa does not specifically disclose the plurality of executable programs stored in the first non-volatile storage device comprising at least a program to perform flow calculations, a program to perform PLC functions, and a program to perform RTU functions.

Allen is relied on for the teaching of the plurality of executable programs stored in the first non-volatile storage device (i.e. updated versions of software applications installed on site management module, see Allen, Fig. 9, element 904, the site management module is the implementation of the computing machine (Fig. 3, element 510) and corresponds functionally to the site management module (Fig. 5, element 76) as disclosed in paragraphs 0106, 0111) comprising at least a program to perform flow calculations (see Allen, paragraph 0072), a program to perform PLC functions (PLC functions, as best understood, are monitored and control functions, see Allen, paragraph 0072), and a program to perform RTU functions (see Allen, paragraphs 0063, 0071, the computing device (Fig. 4, element 16) corresponds functionally to site management module (Fig. 5, element 76), RTU functions, as best understood, are remote terminal unit (see specification of instant application, Lamothe, paragraph 0022).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of the plurality of executable programs stored in the first non-volatile storage device comprising at least a program to perform flow calculations, a program to perform PLC functions, and a program to perform RTU functions in the

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system of Mustafa, as Allen teaches so these valuable programs can be properly protected and utilized.

b) As to claim 10, Mustafa, as modified above discloses wherein accessing a key entry (i.e. license terms) stored on the second non-volatile device further comprises reading the key entry from the second non-volatile storage device across an interface bus (i.e. I/O port, see Mustafa, page 2, paragraph 0037).

c) As to claim 62, Mustafa, as modified above discloses the microcontroller limits the number of instances of the flow program to perform flow calculations, the limit based on license information on the second non-volatile storage device (see Mustafa, page 1, paragraphs 0008 and 0010).

Claims 9, 11-12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mustafa (2003/0028786) in view of Allen et al. (2001/0034567) and further in view of Hsu et al. (5,812,662).

Mustafa discloses second non-volatile storage device (i.e. dongle storing license terms) and reading the key entry across an interface bus (i.e. I/O port anticipates serial peripheral interface). However he does not specifically disclose the second non-volatile storage device comprises a read only memory device (ROM) device (claim 9) and wherein reading the key entry from the ROM device comprises reading a serial EEPROM (claims 11-12).

Hsu discloses a method and apparatus to protect computer software comprising dongle with non-volatile memory (i.e. EEPROM, ROM, EPROM, flashROM) (see Hsu, col. 2, lines 55-64; col. 6, lines 60-61).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of second non-volatile storage device comprising a ROM and/or EEPROM in the system of Mustafa and Allen, as Hsu discloses so as to safely hold the license terms when power is lost.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mustafa (2003/0028786) in view of Allen et al. (2001/0034567) in view of Hsu et al. (5,812,662) and further in view of Microchip Technology Inc.

Mustafa and Allen do not specifically disclose the serial EEPROM comprises a part number 25LC040-I device manufactured by Microchip Technology Incorporated. Hsu discloses serial EEPROM comprises a part number 93C46. However he does not disclose the serial EEPROM comprises a part number 25LC040-I device manufactured by Microchip Technology Inc.

Microchip discloses serial EEPROM 25LC040-I designing to interface directly with the serial peripheral interface port of many popular microcontroller (datasheet).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of Microchip 25LC040-I in the system of Mustafa, Allen and Hsu, as Microchip discloses so as to improve the system performance.

As to claim 14, the examiner takes official notice that use of inter-integrated circuit bus in serial interfacing peripherals chips to microcontrollers is quite well-known in bus interfacing.

Inter-integrated circuit bus is a serial interface standard defined by Phillips Semiconductor in the early 1980's.

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of inter-integrated circuit bus in the system of Mustafa so as to maximize system efficiency.

#### **(10) Response to Argument**

a) Appellant, on page 10 of the brief, argues Mustafa and Allen fail to teach "a first non-volatile storage device ... a program to perform flow calculations, a program to perform PLC functions, and a program to perform RTU functions ...".

Allen is relied on for the teaching of the plurality of executable programs stored in the first non-volatile storage device (i.e. updated versions of software applications installed on site management module, see Allen, Fig. 9, element 904, the site management module is the implementation of the computing machine (Fig. 3, element 510) and corresponds functionally to the site management module (Fig. 5, element 76) as disclosed in paragraphs 0106, 0111) comprising at least a program to perform flow calculations (see Allen, paragraph 0072), a program to perform PLC functions (PLC functions, as best understood, are monitored and control functions, see Allen, paragraph 0072), and a program to perform RTU functions (see Allen, paragraphs 0063, 0071, the computing device (Fig. 4, element 16) corresponds functionally to site



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management module (Fig. 5, element 76), RTU functions, as best understood, are remote terminal unit (see specification of instant application, Lamothe, paragraph 0022).

b) Appellant, on page 11 of the brief, argues the three distinct programs (i.e. a program to perform flow calculations, a program to perform PLC functions, and a program to perform RTU functions) reside and execute at the end-user devices of Allen, not in the network management system.

In paragraph 0111, Allen discloses the updated versions of software applications installed on site management module (i.e. SMM, Fig. 9, element 904), those software applications are needed to enhance the functionality of SMM with newly added application programs (see Allen, paragraph 0114). The Allen reference therefore discloses the application programs (i.e. three distinct programs are downloaded, installed and executed in the SMM unit) to meet the limitation of flow, PLL and RTU programs on a storage device coupled to microcontroller.

**(11) Related Proceeding(s) Appendix**

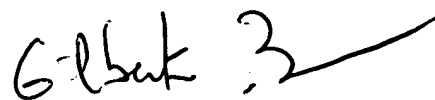
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Minh Dieu Nguyen



GILBERTO BARRON JR  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

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September 21, 2006

Conferees:

Gilberto Barron, Jr.

Supervisory Patent Examiner

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Handwritten signature of Gilberto Barron, Jr. in black ink, consisting of stylized initials 'GB' followed by a long horizontal stroke.

Christopher A. Revak

Primary Examiner

Art Unit 2131

Handwritten signature of Christopher A. Revak in black ink, consisting of stylized initials 'CR' followed by a long horizontal stroke.